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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MENBERU, BENIYAM

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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

	Application No.	Applicant(s)
Office Action Summary	10/663,804	TOGAMI ET AL.
	Examiner	Art Unit	
	BENIYAM MENBERU	2625	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 November 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>25-42</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>25-42</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some * c)☐ None of:

         1.☒ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>08/14/2008</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments with respect to claims 1, 21, 23, and 24 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2.   Claim 35 is objected to because of the following informalities: Claim 35 ends

with a comma. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent Application Publication No. US2002/0051259 A1 to Yasunobu in view of

U.S. Patent Application Publication No. US 2002/0114002 A1 to Mitsubori et al.

        Regarding claim 25, Yasunobu '259 discloses an image processing apparatus

comprising:

a communication unit that communicates with an external device (page 3, paragraph

30; communication unit 22);

an image data receiving unit that receives image data (Figure 3, converter 35 receives
image data RGB; page 6, paragraph 73, 74, 75, 76; image data received from scanner
is RGB data);

an image data storage unit that stores the image data (page 3, paragraph 30 ; storage
unit 21);

a distribution unit that distributes the image data to the external device via the
communication unit (page 6, paragraph 78; pages 6-7, paragraph 80; image is
transmitted);

a color determination unit that determines whether it is full-color data or monochrome
data transmission (page 6, paragraph 75, 76, 77; color/monochrome flag determines
type of image transmission);

a color conversion unit that performs color conversion on the image data that has been
subjected to determination by the color determination unit and stored in the image data
storage unit (page 6, paragraph 76, 77; conversion of RGB to L*a*b* for color data or
conversion of RGB to L* depending on color/monochrome flag);

a format conversion unit that converts a format of the image data that has been
subjected to the color conversion by the color conversion unit into a format compatible
with the external device (page 6, paragraph 76, 77; JPEG format for color and MH
format for monochrome data);

a color conversion change unit that changes the color conversion by the color
conversion unit based on a result of determination by the color determination unit (page

6, paragraph 76, 77; conversion of RGB to L*a*b* for color data or conversion of RGB to L* for monochrome data; conversion is changed depending on color/monochrome flag); and

a format change unit that changes the format into which the format conversion unit converts the format of the image data based on the result of the determination by the color determination unit (page 6, paragraph 76, 77; JPEG format for color and MH format for monochrome data; format is changed based on the color/monochrome flag), wherein the distribution unit distributes the image data the format of which has been converted by the format conversion unit to the external device via the communication unit (pages 6-7, paragraph 80; transmission in step 24). However Yasunobu '259 does not disclose color determination unit that determines whether the image data received by the image data receiving unit is full-color data or monochrome data.

Mitsubori et al '002 discloses color determination unit that determines whether the image data received by the image data receiving unit is full-color data or monochrome data (page 9, paragraph 146, 150, steps s907, no/yes).

Having the system of **Yasunobu '259** and then given the well-established teaching of **Mitsubori et al '002**, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of **Yasunobu '259** as taught by **Mitsubori et al '002**, since **Mitsubori et al '002** stated in page 9, paragraph 146, such a modification would provide image type (color/monochrome) discrimination based on the attribute of the image data.

Regarding claim 26, Yasunobu '259 in view of Mitsubori et al '002 teaches all the
limitations of claim 25. Further Yasunobu '259 discloses the image processing
apparatus according to claim 25, wherein the color conversion change unit changes a
parameter used in the color conversion by the color conversion unit based on the result
of the determination by the color determination unit (page 6, paragraph 76, 77;
conversion of RGB to L*a*b* for color data or conversion of RGB to L* for monochrome
data; conversion parameter relates to how many color components are output during
conversion (1 component for monochrome (only L*) and 3 components for color
(L*a*b*))).

Regarding claim 27, Yasunobu '259 in view of Mitsubori et al '002 teaches all the
limitations of claim 25. Further Yasunobu '259 discloses the image processing apparatus
according to claim 25, wherein the color conversion change unit changes a method of the color
conversion by the color conversion unit based on the result of the determination by the color
determination unit (page 6, paragraph 76, 77; conversion of RGB to L*a*b* for color data or
conversion of RGB to L* for monochrome data; conversion is changed depending on
color/monochrome flag).

5.   Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over
U.S. Patent Application Publication No. US2002/0051259 A1 to Yasunobu in view of
U.S. Patent Application Publication No. US 2002/0114002 A1 to Mitsubori et al further in
view of U.S. Patent Application Publication No. US2001/0038469 A1 to Saito.

Regarding claim 28, Yasunobu '259 in view of Mitsubori et al '002 teaches all the
limitations of claim 25. However Yasunobu '259 in view of Mitsubori et al '002 does not

disclose the image processing apparatus according to claim 25, further comprising a

format change inhibiting unit that inhibits, upon determining that the image data includes

both full-color data and monochrome data, the format change unit to change the format.

Saito '469 discloses a format change inhibiting unit that inhibits, upon

determining that the image data includes both full-color data and monochrome data, the

format change unit to change the format (page 3, paragraph 43; page 6, paragraph 91,

92; mixed color and monochromatic images can be transmitted; Figure 10 shows that

color image is formatted into JPEG and monochrome data is formatted in MMR; page 5,

paragraph 79, 81; thus when receiver is monochrome type receiver the color formatting

to JPEG is inhibited as shown in Figure 10 since the color read flag will always be off.).

Having the system of *Yasunobu '259 in view of Mitsubori et al '002* and then

given the well-established teaching of Saito '469, it would have been obvious to one of

ordinary skill in the art at the time of the invention was made to modify the system of

Yasunobu '259 in view of Mitsubori et al '002 as taught by *Saito '469*, since *Saito

'469* stated in page 6, paragraph 91, 92, such a modification would provide image

transmission of different types of images in agreement with the type of destination

device.

Regarding claim 29, Yasunobu '259 in view of Mitsubori et al '002 further in view

of Saito '469 teaches all the limitations of claim 28. Further Saito '469 discloses the

image processing apparatus according to claim 28, further comprising a format change

inhibiting necessity selecting unit that selects whether to allow the format change

inhibiting unit to inhibit the format change unit to change the format (page 4, paragraph

6; page 5, paragraph 78, 79; if receiver has color reception, then it is not necessary to inhibit the color formatting to JPEG (ie color image will be formatted to JPEG as needed)).

Regarding claim 30, Yasunobu '259 in view of Mitsubori et al '002 further in view of Saito '469 teaches all the limitations of claim 28. Further Saito '469 discloses he image processing apparatus according to claim 28, further comprising a format setting unit that changeably sets the format into which the format conversion unit converts the format of the image data, wherein when the format change inhibiting unit inhibits the format change unit to change the format, the format conversion unit converts the format of the image data stored in the image data storage unit into the format set by the format setting unit (page 4, paragraph 62, 63; page2 4-5, paragraph 72, 73; page 5, paragraph 78, 79; the "color read flag" determines the formatting of image data as shown in Figure 10; if receiver does not have color reception, then this flag is set to "OFF" and the color formatting to JPEG is inhibited as shown in Figure 10).

6.   Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US2002/0176105 A1 to Kawai et al in view of U.S. Patent Application Publication No. US2002/0051259 A1 to Yasunobu.

     Regarding claim 31, Kawai et al '105 discloses an image processing apparatus comprising:

a communication unit that communicates with an external device (page 19, paragraph 316; facsimile device);

an image data receiving unit that receives image data (Figure 1, reference 104 receives image data from unit 103; page 7, paragraph 123);

an image data storage unit that stores the image data (Figure 1, reference 103; page 5,

paragraph 100);

a distribution unit that distributes the image data to the external device via the

communication unit (page 19, paragraph 316; facsimile device transmits image data;);

a color determination unit that determines whether the image data received by the

image data receiving unit is full-color data or monochrome data (page 5, paragraph 98;

color determination unit 115 determines color/monochrome based on saturation data S);

a gamma correction unit that performs gamma correction on the image data that has

been subjected to determination by the color determination unit and stored in the image

data storage unit (page 6, paragraph 109, 110-115; the gamma value (γ) is adjusted

depending on color/monochrome determination. The gamma value is used to correct

color signal and lightness data; page 7, paragraph 123-125);

a format conversion unit that converts a format of the image data that has been

subjected to the gamma correction by the gamma correction unit into a format

compatible with the external device (Figure 1, reference 105, 106, 107, 108, 109 are

combined to generate the required format data (YMCK format) for a printer 110; pages

7-8, paragraph 131-135);

a gamma correction change unit that changes the gamma correction by the gamma

correction unit based on a result of determination by the color determination unit (page

6, paragraph 109, 110-115; the gamma value (γ) is adjusted depending on

color/monochrome determination. The gamma value is used to correct color signal and

lightness data; page 7, paragraph 123-125). However Kawai et al '105 does not disclose

a format change unit that changes the format into which the format conversion unit

converts the format of the image data based on the result of the determination by the

color determination unit, wherein the distribution unit distributes the image data the

format of which has been converted by the format conversion unit to the external device

via the communication unit.

Yasunobu '259 discloses a format change unit that changes the format into which

the format conversion unit converts the format of the image data based on the result of

the determination by the color determination unit (page 6, paragraph 76, 77; JPEG

format for color and MH format for monochrome data; format is changed based on the

color/monochrome flag), wherein the distribution unit distributes the image data the

format of which has been converted by the format conversion unit to the external device

via the communication unit (pages 6-7, paragraph 80; transmission in step 24).

Having the system of **Kawai et al '105** and then given the well-established

teaching of **Yasunobu '259**, it would have been obvious to one of ordinary skill in the art

at the time of the invention was made to modify the system of **Kawai et al '105** as

taught by **Yasunobu '259**, since **Yasunobu '259** stated in page 1, paragraph 9, 10, 11,

such a modification would provide the appropriate formatting of image data for

transmission.

Regarding claim 32, Kawai et al '105 in view of Yasunobu '259 teaches all the limitations of claim 31. Further Kawai et al '105 discloses the image processing apparatus according to claim 31, wherein the gamma correction change unit changes gamma correction data used in the gamma correction by the gamma correction unit based on the result of the determination by the color determination unit (page 6, paragraph 109, 110-115; the gamma value (γ) is adjusted depending on color/monochrome determination. The gamma value is used to correct color signal and lightness data; page 7, paragraph 123-125).

7.   Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US2002/0176105 A1 to Kawai et al in view of U.S. Patent Application Publication No. US2002/0051259 A1 to Yasunobu further in view of U.S. Patent Application Publication No. US2001/0038469 A1 to Saito.

Regarding claim 33, Kawai et al '105 in view of Yasunobu '259 teaches all the limitations of claim 31. However Kawai et al '105 in view of Yasunobu '259 does not disclose the image processing apparatus according to claim 31, further comprising a format change inhibiting unit that inhibits, upon determining that the image data includes both full-color data and monochrome data, the format change unit to change the format.

Saito '469 discloses a format change inhibiting unit that inhibits, upon determining that the image data includes both full-color data and monochrome data, the format change unit to change the format (page 3, paragraph 43; page 6, paragraph 91, 92; mixed color and monochromatic images can be transmitted; Figure 10 shows that

color image is formatted into JPEG and monochrome data is formatted in MMR; page 5, paragraph 79, 81; thus when receiver is monochrome type receiver the color formatting to JPEG is inhibited as shown in Figure 10 since the color read flag will always be off.).

Having the system of Kawai et al '105 in view of Yasunobu '259 and then given the well-established teaching of Saito '469, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Kawai et al '105 in view of Yasunobu '259 as taught by **Saito '469**, since **Saito '469** stated in page 6, paragraph 91, 92, such a modification would provide image transmission of different types of images in agreement with the type of destination device.

Regarding claim 34, Kawai et al '105 in view of Yasunobu '259 further in view of Saito '469 teaches all the limitations of claim 33. Further Saito '469 discloses the image processing apparatus according to claim 33, further comprising a format change inhibiting necessity selecting unit that selects whether to allow the format change inhibiting unit to inhibit the format change unit to change the format (page 4, paragraph 6; page 5, paragraph 78, 79; if receiver has color reception, then it is not necessary to inhibit the color formatting to JPEG (ie color image will be formatted to JPEG as needed)).

Regarding claim 35, Kawai et al '105 in view of Yasunobu '259 further in view of Saito '469 teaches all the limitations of claim 33. Further Saito '469 discloses the image processing apparatus according to claim 33, further comprising a format setting unit that changeably sets the format into which the format conversion unit converts the format of

the image data (), wherein when the format change inhibiting unit inhibits the format

change unit to change the format, the format conversion unit converts the format of the

image data stored in the image data storage unit into the format set by the format

setting unit (page 4, paragraph 62, 63; page2 4-5, paragraph 72, 73; page 5, paragraph

78, 79; the "color read flag" determines the formatting of image data as shown in Figure

10; if receiver does not have color reception, then this flag is set to "OFF" and the color

formatting to JPEG is inhibited as shown in Figure 10).

8.   Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable

over U.S. Patent No. 6757078 to Bai et al in view of U.S. Patent Application Publication

No. US2002/0051259 A1 to Yasunobu.

        Regarding claim 36, Bai et al '078 disclose an image processing apparatus

comprising:

a communication unit that communicates with an external device (column 3, lines 15-20

facsimile device);

an image data receiving unit that receives image data (column 2, lines 36-40; image

input from unit 20);

an image data storage unit that stores the image data (column 4, lines 18-25; image

source 20);

a color determination unit that determines whether the image data received by the

image data receiving unit is full-color data or monochrome data (column 5, lines 45-56;

step 120 determines color/monochrome);

a halftone processing unit that performs halftone processing on the image data that
has been subjected to determination by the color determination unit and stored in the
image data storage unit (column 5, lines 49-67; column 6, lines 1-16; depending on
color/monochrome different halftoning is set; column 6, lines 36-48; halftoning is
processed based on the chosen halftone.);

a format conversion unit that converts a format of the image data that has been
subjected to the halftone processing by the halftone processing unit into a format
compatible with the external device (column 3, lines 14-22; column 4, lines 1-5; the
halftone data is rendered for black and white output format.);

a halftone processing change unit that changes the halftone processing by the halftone
processing unit based on a result of determination by the color determination unit
(column 5, lines 49-67; column 6, lines 1-16; depending on color/monochrome
halftoning is changed; column 6, lines 36-48; halftoning is processed based on the
chosen halftone.). However Bai et al '078 does not disclose

a distribution unit that distributes the image data to the external device via the
communication unit;

a format change unit that changes the format into which the format conversion unit
converts the format of the image data based on the result of the determination by the
color determination unit, wherein

the distribution unit distributes the image data the format of which has been converted
by the format conversion unit to the external device via the communication unit.

Yasunobu '259 discloses a distribution unit that distributes the image data to the external device via the communication unit (page 6, paragraph 78; pages 6-7, paragraph 80; image is transmitted);

a format change unit that changes the format into which the format conversion unit converts the format of the image data based on the result of the determination by the color determination unit (page 6, paragraph 76, 77; JPEG format for color and MH format for monochrome data; format is changed based on the color/monochrome flag), wherein the distribution unit distributes the image data the format of which has been converted by the format conversion unit to the external device via the communication unit (pages 6-7, paragraph 80; transmission in step 24).

Having the system of **Bai et al '078** and then given the well-established teaching of **Yasunobu '259**, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of **Bai et al '078** as taught by **Yasunobu '259**, since **Yasunobu '259** stated in page 1, paragraph 9, 10, 11, such a modification would provide the appropriate formatting of image data for transmission.

Regarding claim 37, Bai et al '078 in view of Yasunobu '259 teaches all the limitations of claim 36. Further Bai et al '078 discloses the image processing apparatus according to claim 36, wherein the halftone processing change unit changes a method of the halftone processing by the halftone processing unit based on the result of the determination by the color determination unit (column 5, lines 49-67; column 6, lines 1-16; depending on color/monochrome halftoning is changed; column 6, lines 36-48; halftoning is processed based on the chosen halftone. Column 6, lines 51-67; column 7, lines 1-15).

9.   Claim 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent No. 6757078 to Bai et al in view of U.S. Patent Application Publication No.

US2002/0051259 A1 to Yasunobu further in view of U.S. Patent No. 5231482 to

Murakami et al.

Regarding claim 38, Bai et al '078 in view of Yasunobu '259 teaches all the

limitations of claim 36. However Bai et al '078 in view of Yasunobu '259 does not

disclose the image processing apparatus according to claim 36, further

comprising a halftone processing inhibiting unit that inhibits, upon determining that the

image data includes both full-color data and monochrome data, the halftone processing

change unit to change the halftone processing.

Murakami et al '482 discloses a halftone processing inhibiting unit that inhibits,

upon determining that the image data includes both full-color data and monochrome

data, the halftone processing change unit to change the halftone processing (column

14, lines 54-67; two types of halftoning unit (340 and 350); column 6, lines 40-54, 54-66;

mixed mode IV; column 16, lines 14-20; Rc,Gc,Bc, are output from 340 and RdGdBd

are output from 350; As shown in Figure 12, in mode IV the data output Data-1, Data-2,

Data-3, are fixed at Gd, Rd, Bd as long as Fdm is "1". Thus the Fdm="1" inhibits the

output to only come from the halftoning unit 350 in mode IV (mixed mode) thus inhibiting

to change the halftoning to unit 340. column 17, lines 5-17).

Having the system of Bai et al '078 in view of Yasunobu '259 and then given the

well-established teaching of *Murakami et al '482*, it would have been obvious to one of

ordinary skill in the art at the time of the invention was made to modify the system of Bai

et al '078 in view of Yasunobu '259 as taught by **Murakami et al '482**, since **Murakami et al '482** stated in col. 3, Lines 10-21, such a modification would provide improvement for the coding/storage of image data having mixed color/monochrome image.

Regarding claim 39, Bai et al '078 in view of Yasunobu '259 further in view of Murakami et al '482 teaches all the limitations of claim 38. Further Murakami et al '482 discloses the image processing apparatus according to claim 38, further comprising a halftone processing inhibiting necessity selecting unit that selects whether to allow the halftone processing inhibiting unit to inhibit the halftone processing change unit to change the halftone processing (column 14, lines 54-67; two types of halftoning unit (340 and 350); column 6, lines 40-54, 54-66; mixed mode IV; column 16, lines 14-20; Rc,Gc,Bc, are output from 340 and RdGdBd are output from 350; As shown in Figure 12, in mode IV the data output Data-1, Data-2, Data-3, are fixed at Gd, Rd, Bd as long as Fdm is "1". Thus the Fdm="1" inhibits the output to only come from the halftoning unit 350 in mode IV (mixed mode) thus inhibiting to change the halftoning to unit 340. column 17, lines 5-17; The Fdm signal is used to decide whether it is necessary to inhibit the output to only Gd, Rd, Bd or to use also the output Gc depending on the value of Fdm.).

10.   Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6757078 to Bai et al in view of U.S. Patent Application Publication No. US2002/0051259 A1 to Yasunobu further in view of U.S. Patent Application Publication No. US2001/0038469 A1 to Saito.

Regarding claim 40, Bai et al '078 in view of Yasunobu '259 teaches all the limitations of claim 36. However Bai et al '078 in view of Yasunobu '259 does not disclose the image processing apparatus according to claim 36, further comprising a format change inhibiting unit that inhibits, upon determining that the image data includes both full-color data and monochrome data, the format change unit to change the format.

Saito '469 discloses a format change inhibiting unit that inhibits, upon determining that the image data includes both full-color data and monochrome data, the format change unit to change the format (page 3, paragraph 43; page 6, paragraph 91, 92; mixed color and monochromatic images can be transmitted; Figure 10 shows that color image is formatted into JPEG and monochrome data is formatted in MMR; page 5, paragraph 79, 81; thus when receiver is monochrome type receiver the color formatting to JPEG is inhibited as shown in Figure 10 since the color read flag will always be off.).

Having the system of Bai et al '078 in view of Yasunobu '259 and then given the well-established teaching of Saito '469, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Bai et al '078 in view of Yasunobu '259 as taught by *Saito '469*, since *Saito '469* stated in page 6, paragraph 91, 92, such a modification would provide image transmission of different types of images in agreement with the type of destination device.

Regarding claim 41, Bai et al '078 in view of Yasunobu '259 further in view of

Saito '469 teaches all the limitations of claim 40. Further Saito '469 discloses the image

processing apparatus according to claim 40, further comprising a format change

inhibiting necessity selecting unit that selects whether to allow the format change

inhibiting unit to inhibit the format change unit to change the format (page 4, paragraph

6; page 5, paragraph 78, 79; if receiver has color reception, then it is not necessary to

inhibit the color formatting to JPEG (ie color image will be formatted to JPEG as

needed)).

      Regarding claim 42, Bai et al '078 in view of Yasunobu '259 further in view of

Saito '469 teaches all the limitations of claim 40. Further Saito '469 discloses the image

processing apparatus according to claim 40, further comprising a format setting unit that

changeably sets the format into which the format conversion unit converts the format of

the image data, wherein when the format change inhibiting unit inhibits the format

change unit to change the format, the format conversion unit converts the format of the

image data stored in the image data storage unit into the format set by the format

setting unit (page 4, paragraph 62, 63; page2 4-5, paragraph 72, 73; page 5, paragraph

78, 79; the "color read flag" determines the formatting of image data as shown in Figure

10; if receiver does not have color reception, then this flag is set to "OFF" and the color

formatting to JPEG is inhibited as shown in Figure 10).

Other Prior Art Cited

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

      U.S. Patent No. 5987166 to Hayashi et al disclose image processor.

      U.S. Patent No. 6360063 to Haneda et al disclose imaging device.

Conclusion

12.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

    A shortened statutory period for reply to this final action is set to expire THREE

    MONTHS from the mailing date of this action. In the event a first reply is filed within

    TWO MONTHS of the mailing date of this final action and the advisory action is not

    mailed until after the end of the THREE-MONTH shortened statutory period, then the

    shortened statutory period will expire on the date the advisory action is mailed, and

    any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

    date of the advisory action. In no event, however, will the statutory period for reply

    expire later than SIX MONTHS from the date of this final action.

      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BENIYAM MENBERU whose telephone number is (571)

272-7465. The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (571) 272-2600. The group receptionist number for TC 2600 is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner
Beniyam Menberu

/Beniyam Menberu/
Examiner, Art Unit 2625

02/26/2009

/David K Moore/

Supervisory Patent Examiner, Art Unit 2625